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EXPRESS MAIL CERTIFICATE

Date 1/16/03 Label No. EV 208554788-45

I hereby certify that, on the date indicated above, this paper or fee was deposited with the U.S. Postal Service & that it was addressed for delivery to the Assistant Commissioner for Patents, Washington, DC 20231 by "Express Mail Post Office to Addressee" service.

PLEASE CHARGE ANY DEFICIENCY UP TO \$300.00 OR CREDIT ANY EXCESS IN THE FEES DUE WITH THIS DOCUMENT TO OUR DEPOSIT ACCOUNT NO. 04-0100

B.W. LEE
Name (Print)B.W. Lee
Signature

Customer No.:



Docket No.: 6727/OK318

07278

PATENT TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Arthur SCHAFER

Serial No.: 10/069,389

Filed: July 1, 2002

For: METHOD FOR BREEDING TOMATOES HAVING REDUCED WATER
CONTENT AND PRODUCT OF THE METHOD

January 16, 2003

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JAN 21 2003
TECH CENTER 160012900

INFORMATION DISCLOSURE STATEMENT

Hon. Commissioner of
Patents and Trademarks
Washington, DC 20231

Sir:

This Information Disclosure Statement is submitted in accordance with 37 C.F.R. 1.97, 1.98, and it is requested that the information set forth in this statement and in the listed documents be considered during the pendency of the above-identified application, and any other application relying on the filing date of the above-identified application or cross-referencing it as a related application.

1. This IDS should be considered, in accordance with 37 C.F.R. 1.97, as it is filed: (Check one of the boxes A-D)

- ☐ A. Within three months of the filing date of the above-identified national application or within three months of the entry into the national stage of the above-identified international application.
- ☒ B. before the mailing date of a first office action on the merits, or a first office action after filing a request for continued examination.
- ☐ C. after (A) and (B) above, but before the mailing date of a final rejection, a notice of allowance, or any other action that closes prosecution, and Applicants have made the necessary statement in box "i" below or paid the necessary fee in box "ii" below.

(check one of the boxes "i" and "ii" below:)

- ☐ i. Counsel states that, upon information and belief, each item of information listed herein was either (a) cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS; or (b) was not cited in a communication from a foreign patent office in a counterpart foreign application and, to the knowledge of undersigned after making reasonable inquiry, was not known to any individual designated in 1.56(c) more than three months prior to the filing of this IDS.
- ☐ ii. A check for the fee set forth in 1. 17(p), presently believed to be \$180, is enclosed.
- ☐ D. after (A), (B) and (C) above, but before payment of the issue fee: Counsel states that, upon information and belief, each item of information listed herein was either (i) cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the IDS; or (ii) was not cited in a communication from a foreign patent office in a counterpart foreign application and, to the knowledge of the undersigned after making reasonable inquiry, was not known to any individual designated in 1.56(c) more than three months prior to the filing of this IDS.
 - ☐ i. A check for the fee set forth in 1.17 (p), presently believed to be \$180, is enclosed.

2. In accordance with 37 C.F.R. 1.98, this IDS includes a list (e.g., form PTO-1449) of all patents, publications, or other information submitted for consideration by the office, either incorporated into this IDS or as an attachment

hereto. A copy of each document listed is attached, except as explained below.

(check boxes A and/or B and fill in blanks, if appropriate.)

- ☐ A. Document(s) _____ is (are) deemed substantially cumulative to document(s) _____, and, in accordance with 1.98(c), only a copy of each of the latter documents is enclosed.
- ☐ B. Certain documents were previously cited by or submitted to the Office in the following prior applications, which are relied upon under 35 U.S.C. 120:

[SERIAL NO. & FILING DATE].

Applicant Identifies these documents by attaching hereto copies of the forms PTO- 892 and PTO- 1449 from the files of the prior application(s) or a fresh PTO- 1449 listing these documents, and request that they be considered and made of record in accordance with 1.98(d). Per 37 CFR 1.98(d), copies of these documents need not be filed in this application.

☐ 3. Document Nos. _____ are not in the English language. In accordance with 1.98(c), Applicant states:

- ☐ An English translation of each document (or of the pertinent portions thereof), or a copy of each corresponding English-language patent or application is enclosed.
- ☐ A concise explanation of the relevance of document(s) _____ is found in the attached search report (see MPEP § 609 A(3)x).
- ☐ A concise explanation of the relevance of document(s) _____ is set forth as follows: [Insert concise explanation of relevance]
- ☐ A concise explanation of the relevance of document(s) _____ can be found on pages _____ of the specification.
- ☐ A concise explanation of document(s) _____ can be found on the attached sheet.

☐ 4. No explanation of relevance is necessary for documents in the English language (see MPEP § 609 A(3)).

☐ 5. Other information being provided for the examiner's consideration

follows:

6. In accordance with 37 C.F.R. 1.97(g) and (h), the filing of this IDS should not be construed as a representation that a search has been made or that information cited is, or is considered to be, material to patentability as defined in §1.56 (b), or that any cited document listed or attached is (or constitutes) prior art. Unless other-wise indicated, the date of publication indicated for an item is taken from the face of the item and Applicant reserves the right to prove that the date of publication is in fact different.

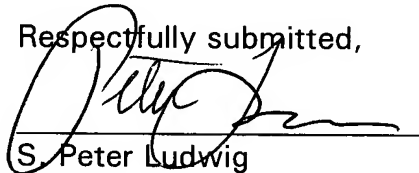
CROSS REFERENCE UNDER 37 C.F.R. §1.78 TO RELATED APPLICATIONS

Pursuant to 37 C.F.R. § 1.78, Applicant notes that the above-identified patent application may be related to the following U.S. Patent Applications:

(1) U.S. Patent Application Serial No _____, filed _____.

Early and favorable consideration is earnestly solicited.

Respectfully submitted,



S. Peter Ludwig
Registration No. 25,351
Attorney for Applicant(s)

DARBY & DARBY P.C.
805 Third Avenue
New York, N.Y. 10022
(212) 527-7700

Docket No. 6727/0K318



FORM PTO-1449

U.S. DEPARTMENT OF COMMERCE PATENT & TRADEMARK OFFICE

SHEET 1 OF 2
(REV. 7-80)**LIST OF REFERENCES CITED BY APPLICANT**

(Use Several Sheets if Necessary)

DOCKET NO.: 6727/OK318 SERIAL NO: 10/069,389
APPLICANT: Arthur SCHAFFER FILING DATE:
CONFIRMATION NO: 3278

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JAN 21 2003
TECH CENTER 1600/2900

U.S. PATENT DOCUMENTS

| <u>*EXAMINER INITIALS</u> | <u>DOCUMENT NUMBER</u> | <u>DATE</u> | <u>NAME</u> | <u>CLASS</u> | <u>SUBCLASS</u> | <u>FILING DATE</u> |
|-------------------------------|----------------------------|-------------|-------------|--------------|-----------------|--------------------|
| | 1. 5,557,883 | Sep. 1996 | Walker | 47 | 46 | |
| | 2. 5,411,561 | May 1995 | Conley | 47 | 58 | |

FOREIGN PATENT DOCUMENTS

| <u>*EXAMINER INITIALS</u> | <u>DOCUMENT NUMBER</u> | <u>DATE</u> | <u>COUNTRY</u> | <u>CLASS</u> | <u>SUBCLASS</u> | <u>TRANSLATION</u> <u>YES</u> <u>NO</u> |
|-------------------------------|----------------------------|-------------|----------------|--------------|-----------------|--|
|-------------------------------|----------------------------|-------------|----------------|--------------|-----------------|--|

OTHER REFERENCES**(INCLUDING AUTHOR, TITLE DATE, PERTINENT PAGES, ETC.)**

*EXAMINER
INITIALS

3. Davis J.N., et al., "G.E. 1981. The constituents of tomato fruit - the influence of environment, nutrition and genotype." CRC Critical Reviews in Food Sci and Nutri. 15:205-280.

4. Grierson et al., 1986. "Fruit ripening and quality." In: Atherton, J.G. and Rudich, J. Eds.: Tomato Crop. Chapman and Hall, London, pp. 241-280.

5. R.J.L. and Scott, G.L., 1957. "The physical factors involved in the drying of Sultana grapes", Australian Journal of Agricultural Research, 8:444-459.

6. Nury, F.S. et al., 1973 "Fruits" In: Van Arsdel, W.B. Copley M.J. and Morgan, A.I., Eds.: Food Dehydration, Avi Publishing Co., Westport, Conn., Vol. 2, pp. 158-198.



FORM PTO-1449

U.S. DEPARTMENT OF COMMERCE PATENT & TRADEMARK OFFICE

SHEET 2 OF 2
(REV. 7-80)**LIST OF REFERENCES CITED BY APPLICANT**

(Use Several Sheets if Necessary)

DOCKET NO.: 6727/OK318
APPLICANT: Arthur SCHAFFERSERIAL NO: 10/069,389
FILING DATE:
CONFIRMATION NO: 3278RECEIVED
JAN 21 2003
TECH CENTER 1600/2900*EXAMINER
INITIALS

7. Baker, E.A., et al, 1982. "Composition of tomato fruit cuticles as related to fruit growth and development. In: Culter, D.F., Alvin, K.L. and Price, C.E., Eds.: The Plant Cuticle. Academic Press, London, pp. 33-44.

8. Ojimekwe, P.C., 1994, "Effects of processing methods on ascorbic acid retention and sensory characteristics of tomato products", J. Food Sci. Technol. 31:247-148.

9. Schaffer, A.A., et al., 1999, "Modification of carbohydrate content in developing tomato fruit, Hortscience 34:12-14.

10. Bernacchi D., et al., 1998, "Advanced backcross QTL analysis in tomato. Identification of QTLs for traits of agronomic importance from Lycopersicon hirsutum. Theor. Appl. Genet. 97:381-397.

11. Database Cab 'Online! Cab International, Wallingford, Oxon, GB; an 86:68394, 1984, Golias, J.: "Resistance of Tomato Cultivars to Fruit Cracking", XP002149829 & Acta Universitatis Agriculturae Brno, Vol. 32, No. 4, pp. 201-208 Abstract.

12. DatabaseBiosis 'Online! Biosciences Information Service, Philadelphia, pA, US, August 1998, Bernacchi D. et al., "Advanced Backcross QTL Analysis in Tomato. I. Identification of QTLs for Traits of Agronomic Importance from Lycopersicon Hirsutum", Abstract.

EXAMINER: _____

DATE CONSIDERED: _____

*EXAMINER:

Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.